

ACT Statement to the Government Oversight Committee
December 17, 2007

Introduction

My name is Tom Goedken. I am a Certified Public Accountant licensed in the State of Iowa and am the Chief Financial Officer and Treasurer of ACT, Inc., an Iowa based 501(c) (3) organization.

I want to thank you for this opportunity to address the Committee regarding ACT, its mission, governance, and compensation practices.

As a non-profit corporation and a tax exempt entity, we take our responsibilities to the governments and agencies that provide oversight and regulations under which we operate very seriously. We also understand the delicate nature of public trust under which all tax exempt entities operate and how that trust is affected by perceptions—whether true or false. Therefore, we welcome the opportunity to meet with this Committee.

Our Mission Based Approach

ACT was incorporated in 1960, and granted tax exempt status by the Internal Revenue Service in 1967. Our mission at that time was centered upon a single program – the American College Test (since renamed “the ACT”) – a curriculum based college entrance and placement exam. The American College Test was created here in Iowa as a direct response to perceived shortcomings in existing entrance exams that measured “aptitude” as opposed to achievement. This program continues to this day and it has grown in depth, breadth, and volume. So, too, has our organization, which now offers dozens of programs and services to clients throughout the nation and the world. Our mission is simple: “Helping people achieve education and workplace success.”

We strive to accomplish this mission in a strategic fashion guided by our core values and a long-term view of the needs of the country and the world. In 2002, our Board of Directors established a set of corporate priorities to help guide the organization during the coming decade. We monitor and report to our Board the progress and status of these

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priorities. The Board uses its knowledge and experience to evaluate this progress, suggest and direct adjustments to strategies, and make changes to these priorities.

The funding for our mission comes from the sale of assessments and other programs and services to the clients that use them. These clients come in many different forms – from the student registering and taking our college entrance exam, to the schools that use the data from those exams to assist student learning, to states that use data to drive policy and curriculum choices. We do not, however, always charge for our services. In this current fiscal year, we will grant “fee waivers” totaling \$8 million to students who are not able to pay the fees for our college entrance exam. We have, on occasion, solicited and received foundation related grants for research or other projects, with the cost of the project usually far greater than the proceeds we receive. ACT is a qualified recipient of tax deductible charitable contributions as a public charity but, to my knowledge, has never actually received a donation from any individual or entity.

In addition to our mission-related programs, we also support the missions of other tax exempt organizations. For example, we – corporately and as individuals – regularly participate in fund-raising activities and mission-related work with local and national charities. In 2006 ACT was named the Johnson County United Way campaign’s “Company of the Year.” Our employee contribution and company match totaled nearly \$170,000 — an increase of 43% over the prior year.

Governance Structure

ACT is governed by a 14-member Board of Directors that serve three-year terms. Directors are nominated by the Executive Committee of the Board and elected by an affirmative vote of the full Board. A Board member may serve up to three consecutive terms, except for the chair of the Board, which is not subject to this limitation. The Chief Executive Officer of the ACT also serves as the Chair of the Board. Other than the CEO/Chair, all Board members are independent of ACT and each other.

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Best Practices

ACT has always sought to follow best practices in governance and policy issues. While we are not subject to the Sarbanes Oxley legislation, we have implemented many of the practices called for in the legislation. For example:

- ACT has had an annual audit, conducted by an independent CPA firm, for the last forty-four years.
- Our Board has adopted a policy that our independent audit firm may not provide consulting services to ACT unrelated to our audit and tax work.
- ACT's Board of Directors has an Audit Committee, comprised entirely of independent Directors.
- Our CPA firm meets annually with the Audit Committee independent of management.
- Every five years the audit partner assigned to ACT's audit engagement is rotated.
- ACT has an internal audit department, the head of which reports directly to the Board's Audit Committee chairperson.
- ACT has a rigorous annual budget process, with final approval by the Board.
- We report our financial results quarterly to the Board.
- All employees and Board members are subject to the same travel policy.
- ACT has one benefits plan for all employees. The plan is reviewed and approved by the Board each year.

Compensation Practices

At the present time, ACT (and its subsidiaries) has approximately 1,500 full and part-time employees. These employees are located in Texas, New York, Georgia, Florida, Illinois, Ohio, Michigan, Colorado, California, Kansas, Washington D.C., Sydney Australia, Madrid Spain, Seoul North Korea, and Shanghai P.R.C., - as well as at our headquarters in Iowa City. Our Human Resources department maintains a job classification system for all of our positions. They research compensation information to

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inform senior management – and our Board – as we strive to maintain a competitive compensation and benefit system throughout the entire organization.

While ACT is a tax exempt organization, we still must compete in a volatile and aggressive market for all of the inputs to our work – human as well as other capital – at all levels of our organization. For materials and purchased services, we engage with world class organizations that satisfy our needs at fair, negotiated prices. For our human capital, we gain market insight for particular skills and locations by using surveys and other data to inform our decisions. These surveys have included the use of external, independent consultants from time to time in order to provide consistent and reliable data.

The compensation of our CEO is set and reviewed annually by our Board of Directors. The CEO, like all senior managers, establishes a set of goals and priorities each year, which are then reviewed and agreed upon by the supervising manager. In the CEO's case this is the Board. These goals and priorities are then evaluated by both the Board and the CEO and form one aspect of the annual performance review. In addition to this review and evaluation process, the Board establishes and approves a set of overall salary budget guidelines for all employees – including the CEO.

In addition to the performance-based approach and the overall salary adjustment contemplated within the annual budget process, the Board considers available market-based data of other CEO's compensation.

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Data is available publicly for several 501 (c) (3) organizations that operate in the educational arena, some of which are include in the following table:

Company	Tax Year Ended	Revenue	Net Assets	CEO Comp	CEO Benefits	CEO Expense Account
Educational Testing Service, Inc	Dec-05	\$793MM	\$235MM	\$716K	\$59K	\$67K
NCAA	Aug-05	\$500MM	\$249MM	\$672K	\$191K	\$7K
The College Board	Jun-05	\$485MM	\$272MM	\$598K	\$39K	\$110K
Graduate Management Admissions Council	Dec-05	\$69.7MM	\$71MM	\$515K	\$477K	-
American Institutes for Research in the Behavioral Science	Dec-05	\$220MM	\$38MM	\$549K	\$438K	-
Analytic Services Inc	Sep-05	\$103MM	\$57MM	\$438K	\$24K	\$6K
		Average		\$582K	\$205K	\$32K
ACT, Inc	Aug-06	\$196MM	\$231MM	\$508K	\$119K	-

Comparisons to other companies are difficult. Complexities in operating models, funding, mission, location, programs, etc. – all must be considered when trying to compare “like” companies. Since our inception, we have considered the Educational Testing Service to be most like ACT in depth, breadth, mission, employment, and organizational structure. Over the years we have competed vigorously with ETS for employees and clients. In fact, over the years some ACT Board members have served on the ETS Board – and vice versa. A byproduct of this is that each of our organizations has unique insights into the business practices of the other. These insights have led us to conclude that the compensation data for ETS is, and should be, comparable to that of ACT.

ACT believes that our CEO’s compensation is reasonable, taking into account the nature, depth, and breadth of the organization as well as comparisons to similar for-profit and not-for profit organizations.

Unlike most tax exempt organizations, we have chosen to compensate our Board of Directors. ACT’s national and international mission requires a Board with extensive, high-level, national, and international experience. We strongly believe that this experience is beyond what can be obtained through a volunteer board.

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In addition, we expect – and demand – that a Board member be an *engaged and active* member. The engagement of Board members is evidenced not only at the Board and committee meetings attended during a term, but also by active communication and involvement with members of our senior management team. If this does not occur – and we have had instances where it has not – the member is expected to leave the Board and we seek another individual to replace that Board member.

We provide compensation to our Board members that we believe is adequate, fair, and reasonable for the time commitment expected by each individual. This compensation is made up of the following elements:

Per meeting fee – Each Board member is paid \$6,000 per board meeting attended. The compensation is based upon a rate of \$250 per hour. Our Board meetings are three-day working events, beginning on Friday and concluding on Sunday. A member is allowed one-half day for meeting preparation, one day (total) for travel, and one and one half days for the meeting itself. Committee chairs are afforded an additional \$500 per meeting for the additional preparation time required.

Retainer – Each Board member is paid a retainer of \$11,250 semi-annually based on a rate of \$250 per hour. It is expected that Board members devote at least forty five hours semi-annually to ACT affairs which include interactions with the Chief Executive Officer and other senior staff members, telephonic interim meetings, committee meetings, and reviewing ACT policy and research reports.

Board-related duties - The Vice-Chair is paid an additional \$7,500 and the Secretary an additional \$2,500 annually. Both amounts are based upon a rate of \$250 per hour and the expected additional effort for these two positions.

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We have based our Board member compensation on various market data that is available to us. Companies with similar operating and organizational structures to ACT that compensate their boards are included in the following table:

Company	Tax Year Ended	Org Type	Revenue	Net Assets	Total Board Comp	Average Board Comp
Educational Testing Service, Inc	Dec-05	501 (c) (3)	\$793MM	\$235MM	\$ 563,000	\$ 35,200
American Institutes for Research in the Behavioral Science	Dec-05	501 (c) (3)	\$220MM	\$38MM	\$ 149,111	\$ 12,400
Analytic Services, Inc.	Sep-05	501 (c) (3)	\$103MM	\$57MM	\$ 255,682	\$ 28,400
Average					\$ 322,598	\$ 25,333
ACT, Inc	Aug-06	501 (c) (3)	\$196MM	\$231MM	\$ 471,000	\$ 36,200

Again, while comparisons of various companies are difficult, we believe ACT is most comparable to Educational Testing Services, Inc., and therefore believe our Board compensation package should compare favorably to that organization.

ACT believes that our Board compensation plan is reasonable, taking into account the nature, depth, and breadth of the organization as well as comparisons to other, similar, for-profit and not-for profit organizations.

Internal Revenue Service Examinations

Like all companies in the United States, ACT is subject to periodic review by the IRS. Our most recent examination occurred during February, 2000 and included the tax years that ended August 31, 1994 -1997. Among the items reviewed by the IRS were the Articles and Bylaws, Determination Letter, Board of Trustees Meeting Minute Book, plus 1099, W-2, W-3 and other returns filed 1994 -1999. The latter items included the compensation of ACT staff (including the CEO) and Board members.

At the conclusion of the examination, the IRS issued a letter that stated "Our recent examination of the above information return disclosed that your organization continues to qualify for exemption from Federal income tax. Accordingly, the return is accepted as filed."

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Since the time of the examination, we have continued to file form 990 for each fiscal year. These tax returns provide information to the IRS related to any change in governance structure, as well as compensation of the CEO and Board members.

Conclusion

ACT supports Senator Grassley's comments and actions in Washington to increase the accountability of tax exempt organizations. We have also followed the work of organizations – such as the Independent Sector - as they study this issue and assist tax exempt organization with best practices. ACT has implemented many of these best practices – and has plans to implement more.

Hopefully, my comments here have helped shed some light on the subject for this Committee as it relates to ACT. I would be pleased to answer any questions from Committee members. Thank you.